

Newbury CLP Executive Committee's response to complaint report into Cllr Boeck's use of social media by Ms Howlett, Solicitor
FAO Advisory Panel, West Berkshire Council (WBC)

This response discusses Ms Howlett's conclusions in light of the four questions raised. We concur with several points and consider the report to be thoughtful and rigorous, particularly with reference to the legal precedents. We differ with one of Ms Howlett's conclusions (3, point 1) and we place a different degree of importance on issues raised in (1) and (4).

We draw not only on WBC's standards described in the councillors' Code of Conduct as Ms Howlett has done, but also on WBC's own Joint Strategic Needs Assessment (JSNA) of Lesbian, Gay, Bisexual and Transgender people, who are recognised by the WBC as a vulnerable group. The JSNA draws on evidence that describes the "numerous inequalities in the health and wellbeing of LGBT people compared to the general population as well as inequalities in health and social care service access and provision" (JSNA, 2016)¹. Its purpose is to map the LGBT population in West Berkshire, highlight where health inequalities exist, and recommend how WBC with its partners might be the driving force in eradicating such inequality. The JSNA asserts "it has been demonstrated that commissioners and providers of health and social care services fail to recognise LGBT communities which serves as a barrier to service access"². We want to draw the JSNA to the attention of the Advisory Panel for two reasons.

First of all we realise there is no reason why the councillors who are part of the Advisory Panel - whether District, Town or Parish - should have any specialist knowledge of the particular social or health needs of people who identify as LGBT or any specialist mental health knowledge, even if they are part of the Health and Wellbeing Board. The JSNA is helpful in stipulating WBC's stated duties towards West Berkshire's LGBT residents and is based on research evidence.

Secondly, during the period of time since we brought the complaint, Cllr Boeck has been appointed to lead the portfolio for Health and Wellbeing and now chairs this important committee. We infer that he has been judged by his peers to be equipped to push forward WBC's LGBT health strategy. We want his peers on the Advisory Panel to know that in our view, however much, and however genuinely Cllr Boeck regrets his social media behaviours, it is those

¹ <https://info.westberks.gov.uk/CHttpHandler.ashx?id=43227&p=0>

² Williams et al (2013) in WB JSNA

behaviours and the underlying attitudes – and as result of his tweets, the public’s awareness of those attitudes - that rule him out of being suitable to take forward this important agenda. Of course people may learn and change their views over time, and we would support Cllr Boeck wholeheartedly in any developmental activities he is engaged in. However the Chair of the Health and Wellbeing Board ought properly to be someone all sections of the community can have confidence in and look to for leadership; someone who is attuned to and able to challenge discriminatory attitudes in others. It ought not to be someone who needs some re-training.

We also want to say a word about Cllr Boeck’s stated goal (May 2018) to “make mental health a priority”³, in his role as Portfolio Holder for Health and Wellbeing (H&WB). While such good intentions are admirable, his conflation of, and possible confusion around, the relationship between mental health disorders and transgenderism in his tweets introduces significant risks: to both WBC’s credibility – imagine a scenario where someone complaining about their treatment discovers the previously-held views of the H&WB Board’s Chair - and to the health and wellbeing needs of the residents of West Berkshire. If Cllr Boeck continues to put himself forward as a kind of ‘champion’ of people with mental health disorders who has some knowledge of the topic, while having publicly and so recently had to apologise for his offensive tweets, then it is possible that not only will West Berkshire residents not believe or trust his words, but will see his ‘championing’ as somewhat cynical, self-serving and even highly selective. They may come to think that there are the ‘right’ kinds of mental health problem – work related stress for example – and the ‘wrong’ sort, such as the anxiety, fear and shame that stems directly from discriminatory and stigmatising attitudes and have been shown to lead to suicide and suicide attempts (see for example Williams [2017]⁴, one of many such studies). Anyone who has experience of mental health issues knows that feeling excluded or marginalised *within an already marginalised and stigmatised group* is deeply isolating and very harmful to health. Fear of being judged within health services and by those in leadership roles is one of those very barriers to accessing services the JSNA refers to.

So with that as our contextual statement, we move on to the specific recommendations of the solicitor.

³ <http://info.westberks.gov.uk/index.aspx?articleid=35257>

⁴ Williams, A. (2017) Risk factors for suicide in the transgender community, *European Psychiatry*, 41, pp S1 – S910 <https://www.sciencedirect.com/science/article/pii/S0924933817318357>

1. Was Councillor Boeck acting, claiming to act or giving the impression of acting in his capacity as a councillor? Ms Howlett concludes that Cllr Boeck *gave the impression that he was acting in his capacity as a councillor* even though she accepts he may not have intended that. We agree that he gave the impression that he was acting in his capacity as a councillor, and would go further and say that's because being elected, as councillor, by the people to a public, vocational, largely autonomous role brings 24/7 responsibilities; it is not a compartmentalised, salaried or regulated 'job'. Like Ms Howlett we consider the council-related tweets to be pivotal to the identity he promoted on Twitter but we also consider councillors in general to undertake the responsibilities entrusted to them, that rely on good character and integrity, trustworthiness, judgement and sense of fair-play. So we place less importance on whether he explicitly claimed in his biography to be a councillor or not. He used his full name and a photograph of himself, an image familiar to the public. Instead we would want to see him consider himself to be an elected representative in *all* his public statements and forums. A teacher, doctor or social worker would not be excused for similar behaviours simply because they did not state their professional role (See the General Medical Council guidance to doctors⁵). We agree Cllr Boeck may be confused by social media and may not yet have settled on how he wishes to project himself – he has not, to date, stated himself to be a councillor in his biography – but a lack of understanding is no excuse.

2. Did Councillor Boeck make the comment, retweet the comments, using resources issued to him by the Council? Ms Howlett concludes "*Probably not. It is impossible to be absolutely certain about this*". We agree.

3. Was the social network activity deemed to be disrespectful, bullying and/or intimidation? Ms Howlett concludes that there are two threads to be considered separately here. She says of the comments regarding Eddie Izzard: *I do not therefore believe that the first thread was disrespectful, bullying or intimidating towards an individual.* And of the second, regarding transgenderism and mental health "*YES it was disrespectful*".

We agree with Ms Howlett's conclusion regarding the second thread, but consider the two to be intertwined and strongly connected to the broader narrative of Cllr Boeck's timeline. We would ask the Advisory Panel to bear this in mind when reviewing the part of the report that appears to exonerate Cllr Boeck when he references Eddie Izzard. Cllr Boeck claims that the comment regarding Mr Izzard was purely motivated by making a point in the

⁵ GMC guidance on social media use: <https://www.gmc-uk.org/>

interests of robust political debate, and was not related to Mr Izzard's gender identity. The report further posits that this is something that should be expected when commenting upon a person in Mr Izzard's position. However, this ignores two important considerations.

i. The point Cllr Boeck was making rests on two assumptions. Firstly that voters in the north of England would lack the finesse, tolerance or intelligence to see past the appearance of someone who did not conform to a binary gender identity, and secondly that as a result, this assumption made Mr Izzard's appearance worthy of comment – and contempt. Nothing was said about Mr Izzard's political views; Cllr Boeck simply chose to comment on a Labour member who presents as non-binary. So we would ask the advisory panel to consider the intent behind the original tweet. Was it to suggest Labour is out of touch with northern voters? Because if so, why would Mr Izzard be used to support such a point? It seems self-evident the point was made because Mr Izzard chooses to dress to reflect his transgender identity; the context and internal logic of the post rests on it.

Gender identity is a protected characteristic under the Equality Act 2010⁶ and was designed to protect against discrimination in the workplace *and* wider society. Guidance from the Advisory, Conciliation and Arbitration Service⁷ states that “someone with a non-binary identity could be protected if they are discriminated against because they are thought to be considering, thought to be going through or thought to have gone through gender reassignment from man to woman or woman to man, regardless of whether this perception is correct or not”.

There is broad parity of protection between those who may be perceived to be considering gender reassignment with individuals who might be black or from a minority ethnic background, gay, muslim, jewish, a pregnant woman, disabled or possessing a range of other possible characteristics. We would ask the Advisory Panel to consider how they would regard tweets that mocked David Lammy, Sajid Javid, Baroness Warsi, Diane Abbott or David Blunkett for their perceived inability to connect with a certain demographic or geographical region. As the law treats all of the characteristics these individuals possess as worthy of the same protection, we regard it as a mistake to gloss over this aspect of Mr Boeck's twitterfeed.

⁶ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

⁷ <http://www.acas.org.uk/index.aspx?articleid=1363>

ii. Secondly, whether there is merit in the idea that this is simply “robust political debate” is debatable. We wholeheartedly reject the view that political debate takes place in some different kind of moral sphere to other types of public debate and as such is allowed lower standards. Indeed we consider this assumption to be a fundamental mistake made by those who operate in political ‘bubbles’, and to be one of the most alienating aspects of political discourse. As a local constituency group of the Labour Party we assert that politicians ought to hold themselves to higher, not lower, standards of public discourse than might be expected in other arenas, particularly when discussing individuals or groups who belong to minority and vulnerable groups. It is because of this that we suggest the tweet relating to Mr Izzard should not be considered in isolation, but in the context of Cllr Boeck’s other posts categorising transgenderism as a mental disorder. We would argue that both constitute and reinforce the same offensive and discredited view. Cllr Boeck is being given an extraordinary “pass” in the report, when the targeting of Mr Izzard is considered simply as robust political debate. We do not regard it as such.

4. Did Councillor Boeck fail to adhere to any regulations pertaining to equality? Ms Howlett concludes: *I believe the answer is yes because Councillor Boeck failed to treat those with mental illness with respect. It was a mistake and he has acknowledged this and apologised.* We would concur of course – but would add, as all our comments above reflect, that this is not a simple case of a sin of omission; a failure to treat one group of people or another with respect. It is a sin of commission, in that the particular, pernicious and well-established conflation of transgenderism and mental disorder is a deeply damaging discourse promulgated by certain right wing fundamentalist groups. Mr Boeck may be unaware of this, but again ignorance is no excuse. As we have seen and as extensive evidence shows – and we need go no further than the Council’s own JSNA – there *is* a relationship between gender identity issues and transgenderism, and poor mental health. But it is not of the type Cllr Boeck promoted. People all too often become unwell *because of* the way they are treated or fear being treated by society (again, see Williams [2017] and many others). We have not seen this important distinction acknowledged and enunciated so far in this complaint process, or in Mr Boeck’s own apology, yet it is central given we are discussing WBC’s Chair of the H&WB Board.

In summary then, Cllr Boeck has a significant responsibility for mental health across the district as part of his new role, and in related ways as a senior councillor. It seems from the report of this incident in the Newbury Weekly News that he has actually fed the mistaken and damaging perceptions at play

and emboldened people who mistakenly share the view of transgenderism as a mental disorder. See some of the comments section of the NWN article online⁸.

We would ask members of the Advisory Panel: what message does it send when someone who appears to hold these views is given such a prominent position in the Council's executive and is moved, mid-investigation, to become Chair of the H&WB Board? What message would a young, transgender individual take from reading the tweet about Eddie Izzard, the tweet about mental illness, or – as is key- *both* in concert?

That they are mentally ill?

That they should not enter politics?

That they should expect to be mocked if they dare to do so?

That they should avoid parts of England?

That they are worthy of opprobrium on the basis of their clothing?

Cllr Boeck has a responsibility to promote equality and improve the health and wellbeing of the communities he serves. He has demonstrably failed to do so. Such behaviour normalises discrimination and stigmatisation of people who are already vulnerable and it is our considered view that this must be considered when sanctions are decided upon. Finally, we were very disappointed to see the MP for Newbury swiftly and categorically defending Cllr Boeck's actions in the NWN, following his own very high profile 'championing' of mental health during 2017. We remain worried that Mr Benyon's public defence of his friend looks like undue political influence, and would remind local politicians that mental health services operate in a medico-legal context. Powerful individuals ought to tread carefully if they are not to add to the perceived barriers that all too often prevent people seeking help.

Tom Tunney and the Newbury Constituency Labour Party (CLP) Executive Committee

⁸ NWN comments: <https://www.newburytoday.co.uk/>